INS Reporter

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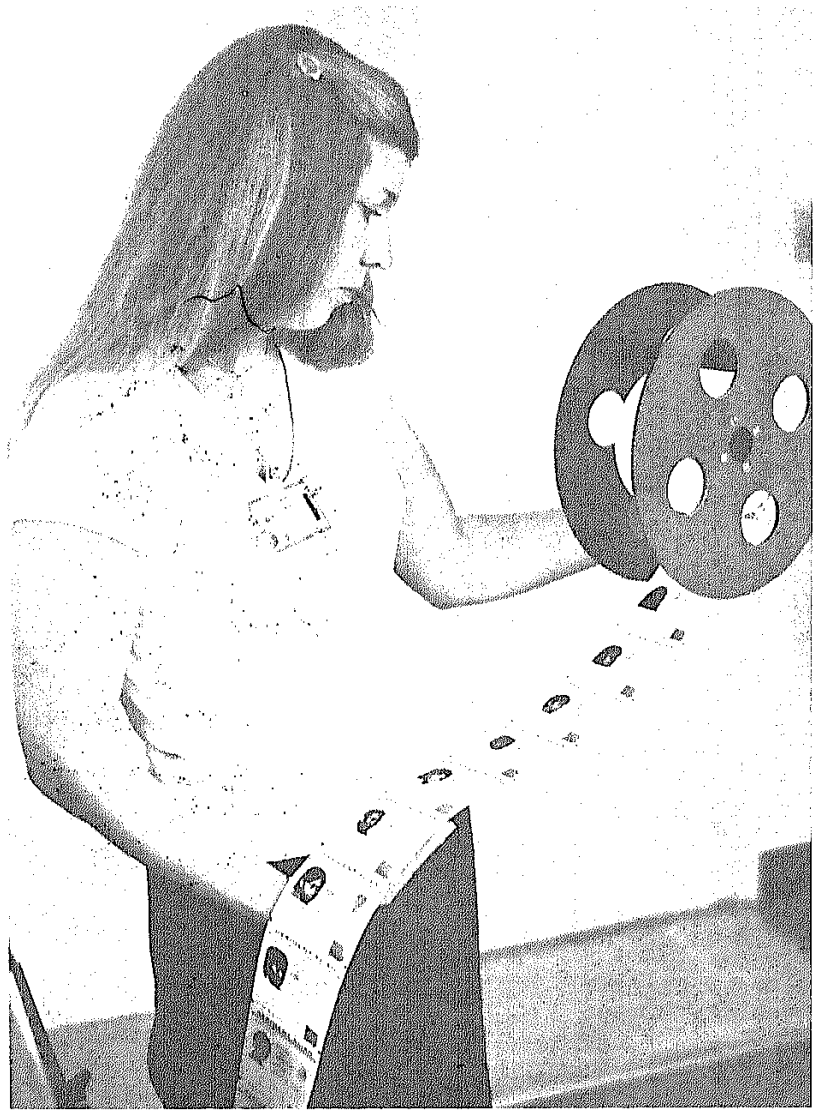

Development of United States Refugee Policy
The ICF and the Newest Resident Alien Card
Administration's Efficiency Package

INS Reporter

Fall 1979

The United States Department of Justice
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Cover: The Immigration Card Facility in Arlington, Texas, is responsible for processing and producing the new Alien Registration Receipt Card (I-551). One step in the production process involves several photographic techniques which are used to produce the card fronts. Here, a Photo Lab Technician examines the card fronts as they come out of the photo processor. (Cover photo and those appearing in accompanying article by Gordon Nichols.)

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of this Agency. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 30, 1981.

Development of United States Refugee Policy

By Paul W. Schmidt
Deputy General Counsel
Central Office

The United States is embarking upon a comprehensive recodification and redefinition of its refugee admission procedures. This article will examine the development of refugee admission programs over the years, which have culminated in the present introduction of new legislation to meet the growing problem.

Early Programs

Official refugee programs began as a response to the large displacement of persons following World War II. There were some 40,000 displaced persons admitted under a Presidential Directive dated December 22, 1945, which gave such persons priority in the issuance of visas.

The first two statutes enacted were the Displaced Persons Act of 1948[1] and the Refugee Relief Act of 1953[2], which together accounted for the admission of over 600,000 European refugees between 1948 and 1957. The Displaced Persons Act charged the refugees against existing immigration quotas, while the Refugee Relief Act admitted them outside the quota system.

The year 1956 marked the first large-scale use of the Attorney General's parole authority under Section 212(d)(5) of the Immigration and Nationality Act to bring refugees to the United States. Approximately 32,000 of the 38,000 Hungarian refugees who came to the U.S. were paroled. The remainder, about 6,100, were processed under the Refugee Relief Act and admitted as permanent residents.

Thereafter, parole was used to admit approximately 20,000 refugees from Communist and Middle Eastern countries under a "fair share" program from 1960 through 1965.[3] In addition, parole was used to admit some 15 thousand refugees from Hong Kong in 1962. Those refugees paroled into the United States needed special enactments from Congress to adjust to lawful permanent resident status.[4]

Parole Programs Authorized

All Others

1956	European Orphans	925
1957	Hungarians	32,000
1962	H.K. Chinese	15,000
1970	Czechs	6,500
1972-73	Ugandans	1,750
1978	Lebanese	1,000
	TOTAL	57,175

Conditional Entry

In 1965, as a part of the legislation which repealed the national origins quota system, Congress enacted permanent refugee legislation.[5] The addition of Section 203(a)(7) of the Immigration and Nationality Act, created a class of "conditional entrant" refugees from Communist or Middle Eastern countries whose status resembled that of refugee-parolees in many respects.[6]

A statutory mechanism was created to allow conditional entrants to be granted lawful permanent resident status retroactively to their actual date of entry to the United States, upon fulfillment of a requirement of two years presence in the U.S. The apparent rationale of the two-year waiting period was that it would offer the Government an opportunity to observe the conditional entrant's conduct in the United States in order to determine if he fell within any of the categories of inadmissible aliens.

Originally, conditional entry was available only to natives of the Eastern Hemisphere. This was because the preference system, of which Section 203(a)(7) was a part, was not applicable to natives of the Western Hemisphere. With the enactment of legislation in 1976[7] and 1978,[8] conditional entry became available to 17,400 refugees annually without regard to hemisphere of birth. However, because conditional entry remained limited to refugees fleeing from Communist or Middle Eastern countries, the only Western Hemisphere refugees who could qualify for conditional entry status were Cubans.

Cuban Refugees

In enacting Section 203(a)(7), Congress indicated its intention that parole not be used for future group admission of refugees.[9] Nevertheless, beginning with the fall of the Batista government in 1959, Cuban refugees were brought into the United States under the parole authority, with the knowledge and consent of the Congress.

As Western Hemisphere aliens, Cubans were not eligible for conditional entry prior to the change in the law which took place on January 1, 1977.[10] Moreover, the numbers involved, nearly 420,000 to date, would have been far beyond the scope of the conditional entry program. Congress endorsed the Cuban refugee parole program by providing both money for resettlement[11] and special legislation for adjustment of status.[12]

Indochinese Refugees

The fall of Vietnam caused another large flow of refugees. Approximately 135,000 Indochinese refugees were paroled into the United States in the months following the fall of Vietnam in the spring of 1975. Funding for these refugees was provided by

Parole Programs Authorized
Soviets & Eastern European

Soviets

1963		224 1/
1970		4,500
1971		200
1973-74		3,500
1977		9,000

Soviets & Eastern European

1978		12,000
1979		32,500 2/
	TOTAL	61,924

1/ Russian Orthodox "Old Believers"
2/ Parole authorized for 25,000 in April and 7,500 in October.

Congress,[13] and special legislation was enacted in 1977 allowing Indochinese refugees who had been paroled into the United States to adjust status to that of lawful permanent resident aliens after two years of residence in the United States.[14]

The refugee flow from Southeast Asia has continued. Since the volume has far exceeded the conditional entry numbers available, it has been necessary to parole additional groups of Indochinese refugees over the last several years. In June 1979, President Carter announced that Indochinese refugees would be paroled at e rate of 14,000 per month pending the enactment of new legislation. Since 1975, parole has been authorized for more than 290,000 Indochinese.

Parole Programs Authorized
Cubans & South Americans

1961-1979	Cubans	419,153
1978	Cuban Prisoners	12,000 1/
1975	Chileans	1,600 1/
1976	Chileans, Uruguayans, & Bolivians	800 1/
1978	Argentinians, Brazilians, Peruvians, Paraguayans, & Uruguayans	2,000 1/
	TOTAL	435,553

1/ Includes accompanying family members of detainees and political prisoners.

Others

Parole has also been used to admit detainees and political prisoners from South America who were not eligible for conditional entry, and to admit additional refugees from the Soviet Union and Eastern Europe over and above the limits on conditional entry. In Fiscal Year 1978, over 60,000 refugee admissions were authorized—more than two-thirds of these by parole.

Problems

In recent years, it became obvious that the conditional entry provision, with its numerical restrictions and narrow definition of eligible refugee, was no longer adequate to deal with the reality of the refugee situation. As noted above, the bulk of recent refugee admissions have been through the use of the Attorney General's parole authority.

Informal procedures developed over the years whereby the Secretary of State would request the Attorney General to authorize parole for a certain group of refugees. The Attorney General in turn would consult informally with the Chairmen and ranking members of the House and Senate Judiciary Committees before acting on the parole request. In some instances, hearings were held during which high ranking Executive Branch officials testified regarding the need for additional refugee admissions.

Members of Congress and officials of the Executive Branch expressed concern about the undefined nature of the consultation process and the necessity of resorting to parole authority on a regular basis to deal with refugee situations. In addition, as mentioned previously, paroled refugees required periodic special statutory enactments to allow them to adjust to lawful permanent resident status.[15]

Legislative Initiatives

In the 95th Congress (1978) refugee bills were introduced by Senator Edward Kennedy in the Senate and by Congressman Joshua Eilberg in the House.[16] The bills were versions of proposals which both legislators had offered in previous Congresses.

Although the Kennedy and Eilberg proposals differed in several material respects, they both included a new statutory definition of "refugee", which eliminated the ideological and geographical restrictions contained in the conditional entry provision, and conformed generally to that employed in the United Nations Convention Relating to the Status of Refugees.

Both bills also provided a statutory basis for consultation with Congress in connection with the Executive Branch's decision to admit refugees beyond the statutory limit set by the Congress, and a permanent mechanism by which refugees could become lawful permanent resident aliens.

Parole Programs Authorized
Indochinese

April 1975	135,200 1/
May 1976	11,000
August 1977	15,000
January 1978	7,000
June 1978	25,000
December 1978	21,875
April 1979	40,000
October 1979	35,000
TOTAL	290,075

1/ Includes 2,300 orphans

On April 12, 1978, INS Commissioner Leonel Castillo testified before the House Subcommittee on Immigration, Citizenship, and International Law, and announced the outline of an Administration policy on refugees.

These included: a broadened refugee definition; annual admission of 50,000 normal flow refugees of "special concern" to the United States; consultations with the Congress on admission of refugees in unforeseen circumstances; a permanent mechanism for providing lawful permanent resident alien status to aliens admitted as refugees; and agreement to create a joint legislative-executive commission to study immigration and refugee policy.[17] These principles became the basis for the Administration's refugee bill which was introduced in the 96th Congress.

Administration Bill

The Administration's refugee bill was introduced in the Senate by Senator Kennedy, Chairman of the Senate Judiciary Committee (S. 643), and in the House by Chairman Rodino of the House Judiciary Committee (H.R. 2816) on March 13, 1979.

The bill incorporated the principles set forth above, except that the President was given authority to exceed the 50,000 annual limitation on normal flow refugees. Such authority would be exercised on the basis of a determination made by the President prior to the beginning of the fiscal year, and following consultation with the Congress, that more than 50,000 refugee admissions were necessary to accommodate the foreseeable number of refugees of special concern to the United States.

In addition, the bill included a system for the funding of refugee resettlement and assistance programs for all refugees admitted under the bill. Hearings were held before the Senate on March 14, 1979, and before the House on May 3, 1979. An amended version of S. 643, which was consistent with the Administration's proposal in many respects, was passed by the Senate by an 85 to 0 vote on September 6, 1979.

The House Judiciary Committee favorably reported an amended version on the bill on September 19, 1979. Since it differs from the Senate version, and should it ultimately pass in its present form, then a House-Senate conference will be necessary to iron out the differences. ■

Footnotes

[1] Act of June 25, 1948, 62 Stat. 1009, as amended June 16, 1950, 64 Stat. 219, and June 28, 1951, 65 Stat. 98. See 2 C. Gordon & H. Rosenfield, Immigration Law and Procedure section 2.27 h (1979), for a more detailed discussion of early U.S. refugee programs.

[2] Act of August 7, 1953, 67 Stat. 400.

[3] Act of July 14, 1960, 74 Stat. 504.

[4] See e.g., Act of July 25, 1958, 72 Stat. 419 (Hungarians); Act of Nov. 2, 1966, P.L. 89-732, 80 Stat. 1161 (Cubans).

[5] Section 3, Act of Oct. 3, 1965, P.L. 89-236, 79 Stat. 912-13.

[6] An additional provision relating to persons uprooted by "catastrophic natural calamity as defined by the President" has never been invoked.

[7] Act of Oct. 20, 1976, P.L. 94-571, 90 Stat. 2703.

[8] Act of Oct. 5, 1978, P.L. 95-412, 92 Stat. 907.

[9] S. Rep. No. 748, 89th Cong., 1st Sess., 17 (1965); H.R. Rep. No. 745, 89th Cong., 1st Sess., 15-16 (1965).

[10] See footnote 7.

[11] Act of June 28, 1962, P.L. 87-510, 76 Stat. 121.

[12] Act of Nov. 2, 1966, P.L. 89-732, 80 Stat. 1161.

[13] Act of May 23, 1975, P.L. 94-23, 89 Stat. 87, as amended by section 201, Act of Oct. 28, 1977, P.L. 95-145, 91 Stat. 1224, and section 201, Act of Oct. 30, 1978, P.L. 95-549, 92 Stat. 2086.

[14] Act of Oct. 28, 1977, P.L. 95-145, 91 Stat. 1223.

[15] The latest such enactment, section 5, Act of Oct. 5, 1978, P.L. 95-412, 92 Stat. 909, applies to all refugees paroled into the U.S. before September 30, 1980 who have resided here for at least two years.

[16] S. 2751 (95th Cong.); H.R. 3056 (95th Cong.); H.R. 7175 (95th Cong.)

[17] The Select Commission on Immigration and Refugee Policy was created by the Act of Oct. 5, 1978, P.L. 95-412, 92 Stat. 907.

Changes in the Regulations

Under Title 3, Code of Federal Regulations

Consult 44 FR 43453, July 25, 1979, Presidential Proclamation Number 4670, dated July 23, 1979, "Citizenship Day and Constitution Week, 1979".

Under Title 8, Code of Federal Regulations

Consult 44 FR 47757, Aug. 15, 1979, Section 238.4.

44 FR 48652, Aug. 20, 1979, Section 238.3.

44 FR 49239, Aug. 22, 1979, Section 214.2(a)(2).

44 FR 49430, Aug. 23, 1979, Section 204.1(b)(1) & (b)(2).

44 FR 50587, Aug. 29, 1979, Section 103.1(q).

44 FR 50803, Aug. 30, 1979, Section 238.3.

44 FR 52169, Sep. 7, 1979, Section 103.2(b)(1) and 103.7(a).

44 FR 53582, Sep. 14, 1979, Notice concerning extended voluntary departure for out of status H-1 nurses.

44 FR 56311, Oct. 1, 1979, Sections 100.4(c)(1) & (c)(2); and 100.4(d).

44 FR 61319, Oct. 25, 1979, Section 103.7(b)(1).

44 FR 61320, Oct. 25, 1979, Section 316a.2. ■

The ICF and the Newest Resident Alien Card

By William M. Kemper
Director, Immigration Card Facility
Arlington, Texas

Situated in Arlington, Texas, the fastest growing area in the Dallas-Fort Worth Metroplex, the Immigration Card Facility (ICF) has good reason to boast of its rapid growth and role within the Immigration and Naturalization Service.

By comparison with many other Immigration Offices, the ICF would seem to be physically small. However, its workload, like many of the larger offices, is enormous!

During the last fiscal year, nearly 600,000 applications for Alien Registration Receipt Cards (I-551) were received and processed, resulting in over 555,000 new fraud-proof cards

being issued to permanent resident aliens. This year, it is anticipated that another 750,000 cards will be produced and issued.

Just a little more than 18 months ago, the facility first opened its doors. Initially it was known as the Texas Card Facility (TCF) to differentiate from the original Card Production Facility (CPF) which was located at the Bureau of Engraving and Printing, Washington, D.C. But, name and location changes are incidental. What is important is that it serves as the heart of Immigration's Alien Documentation Program and represents the newest and most secure identification card manufacturing facility of its kind.

The new I-551 photographically combines the alien's photo, fingerprint, and signature on the face of the card. The reverse contains coded biographical data relating to the individual.

The Facility Operation

I have frequently been asked questions such as: "What does the ICF do down there in Texas?" "What is so special about these new cards?" "Will this system ever be implemented?" "Why has it taken so long to get the ADIT program underway?" Perhaps you have asked the same questions. And, maybe you have been a bit skeptical, as well. Unfortunately, it is not possible for all of you who read this article to visit the card facility and see firsthand how an I-551 card is manufactured. Not only would your questions be answered but you would become a believer. I think the facility is impressive and that you would agree, if you had an opportunity to visit it.

Physically, the ICF measures about 18,000 square feet, providing working area for approximately 160 contractor and 55 INS employees. There is an elaborate inventory of sophisticated photographic equipment, computer hardware, card production, and security equipment contained at the facility.

The prime contractor, Technicolor Graphic Services, Inc. (TGS) is a wholly owned subsidiary of Technicolor, Inc. a pioneer in the field of color motion pictures. TGS has government contracts to operate various photographic and remote sensing facilities for NASA at the Kennedy Space Center, Florida; the Johnson Space Center, Houston; the Goddard Space Flight Center, Maryland; the Ames Research Center in California; the Air Force Eastern Test Range in Florida, and Maxwell Air Force Base in Alabama; and for the Geological Survey at the EROS Data Center in South Dakota. At these facilities the work includes camera operations, laboratory operations, film productions, computer operations, optical and mechanical design and maintenance, electronic design and maintenance, and scientific research and training.[1]

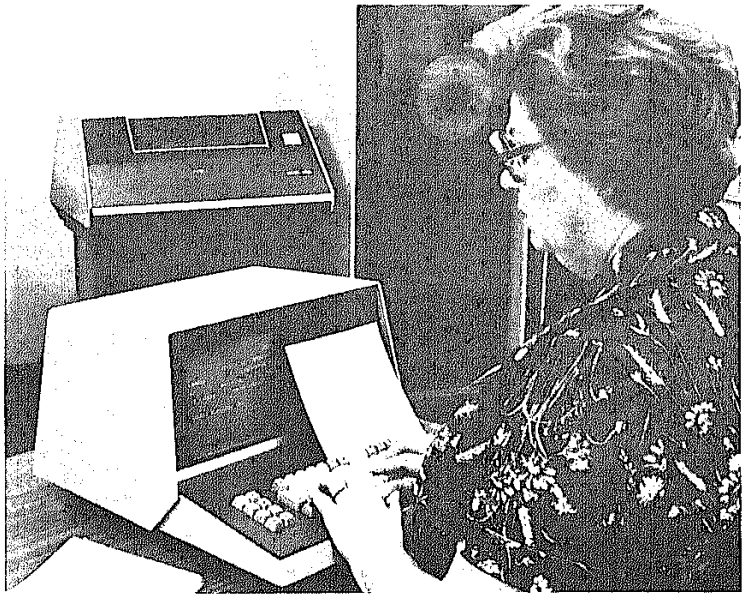
TGS has been associated with the INS card production operation for three years now, and a new contract has just been signed for FY 1980. This contract is truly unique for INS, not only because it is the first card production contract of its kind, but also because it is the only contract that INS has ever had where a contractor staff co-exists with a government staff in a contractor-leased, contractor-operated facility. The roles are separate and distinct but the goals are common.

Mr. Harold Bolton is the TGS Project Manager, and heads up the production activities involving approximately 160 people. These contractor personnel are specialists in several areas such as production, data preparation and entry, computer systems analysis and programming, photographic processing, fingerprint coding, quality assurance, and engineering.

The government staff, consisting of approximately 55 INS people, also plays an important role in the initial processing of the applications, in the final quality assurance of the output, in providing technical direction, and in monitoring and evaluating the multi-million dollar contractor operation.

INS activities, which are both line and staff, include: screening and review of Card Data Collection Forms (I-89) and immigrant visas, input (via terminal) of applicant data for the system which "tracks" the status of the card application, review of contractor prepared data forms, quality assurance of the completed cards, filing of cards which are returned in the mail, and the preparation of responses to correspondence pertaining to the status of an alien's card. Other functions involve computer systems analysis and programming, security control, technical development and analysis, program analysis and contract administration.

[1]Source: TGS Project Manager, Arlington Operations, 1979.



Biographical data is taken from the I-89 and entered into the computer where it is stored until ready for printing on the card.

The entire operation and staff is a branch within the ADIT Program, headquartered in the Central Office, Office of Operations Support. The ADIT Program is managed by Jerry Webster, who has overall responsibility for ADIT Systems design, development, implementetion, and operation. Policy direction and overall integration with other Service systems and functions fall under the purview of the Associate Commissioner, Operations Support, Bob Kane.

Tha Adit Program—The Concept and Hiatory

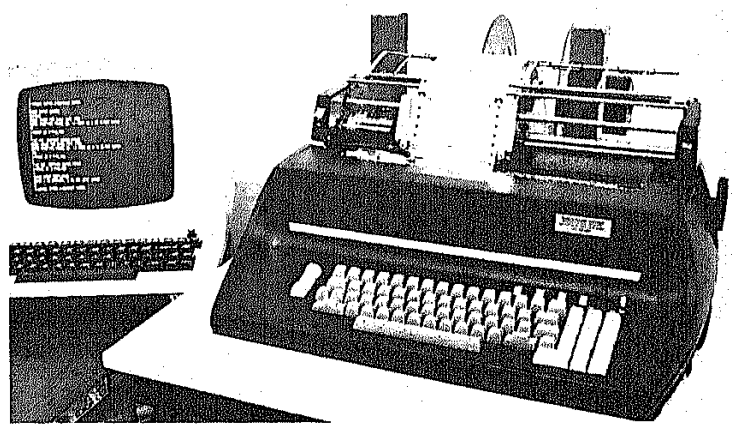
The acronym ADIT stands for Alien Documentation, Identification and Telecommunications System. The concept of the ADIT Program is an outgrowth of INS studies reflecting increased fraudulent entries by individuals using counterfeit or imposter cards. Since the Service began issuing "green cards" to permanent resident aliens back in 1940, there have been some 17 different versions issued over the years. Each was intended to counter the widespread fraudulent use of the I-151, Alien Registration Receipt Card.

As envisioned and planned, the ADIT system involves creating a high quality identification card which will bind the document to its lawful bearer in several ways. The card will contain a color photo, fingerprint, signature, and biographical data, as well as a number of secure features to insure positive identification of the rightful holder. Also, the information contained on the card will be stored in the computer for future retrieval.

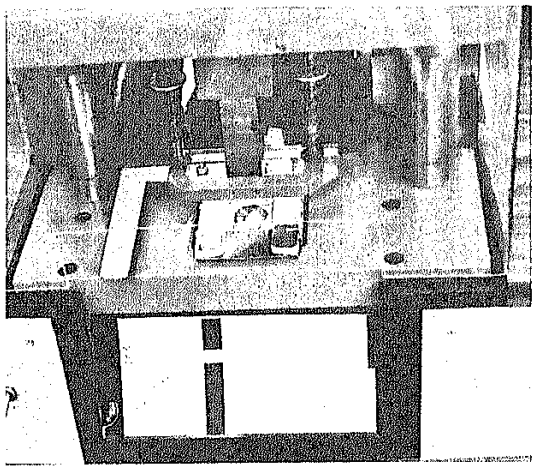
The primary inspection areas at ports of entry will have specially designed terminals for reading the card, and the secondary inspection areas will have terminals linked via telecommunication lines to the Central Office Master Index records in Washington, D.C. Thus, fraudulent use of the card is precluded since attempts at counterfeiting or alteration of the card can be detected when checked through the computerized system.

Funding for ADIT was appropriated in FY 1976. From the beginning, the Program experienced difficulty. The concept was new, the technology not readily available and many of the Service's inspection and enforcement personnel were skeptical and critical of its possible success. The timetable for implementation and operation was oversold. No one realized that the technology for such a sophisticated card system was nonexistent.

Hiring delays were also experienced: it was three months into the fiscal year before the Program Manager was hired; six months before the first members of the technical staff were brought on board. During the early development and design stages, the only prime contractor was

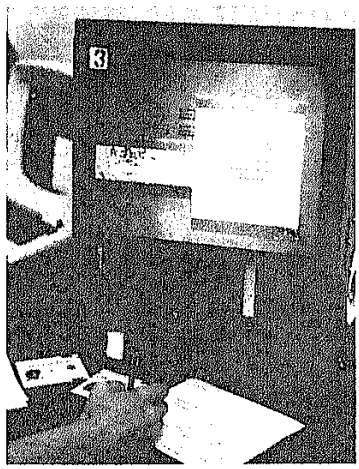


Here the data is being printed on the reverse of the cards, according to information stored in the computer.



This is a close-up of the Photo Applicator machine which trims the photo and glues it to the camera card.

Following application of the photo to the camera card, the next step is to apply the alien's name, number, date of birth, port of entry, and class of admission code.



The card fronts are placed in a device which magnifies the fingerprint so that the prints can be classified by certain features called minutiae.

the MITRE Corporation, a not-for-profit Congressionally chartered organization, which specializes in design consulting roles marketable only to government agencies.

About the time when the ADIT/MITRE System development was getting underway, a whole new awareness was beginning to dawn in the I.D. card industry. Many vendors with so-called new special identification techniques came "knocking on the door" when the ADIT Program went public with its invitation for bids. The widespread fraudulent use of credit cards, birth certificates, drivers licenses, passports, and now, alien cards, had proliferated a variety of technological I.D. gadgetry and ideas which were designed to stop or deter such document fraud.

INS knew that all illegal entry was not just occurring in remote border areas, but also occurred at our ports of entries through use of counterfeited or stolen I-151's. In addition, it was possible for those who successfully crossed our borders illegally, to purchase I-151's from vendors of counterfeit documents for use after entry. Clearly, the challenge was to develop a card and system which together would provide the ultimate security check at time of inspection. But, the solution was still obscure.

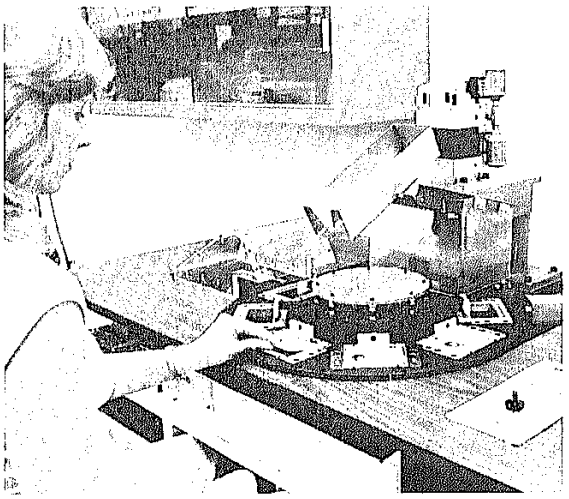
ADIT selected a concept whereby the required alien data, photograph, fingerprint, and signature would be photographically collected and combined by a specially designed camera. The concept was basically similar to many motor vehicle registration methods in producing drivers' licenses. The cameras were to be built to government specifications and set up at the ports of entry.

The Problems and Delays

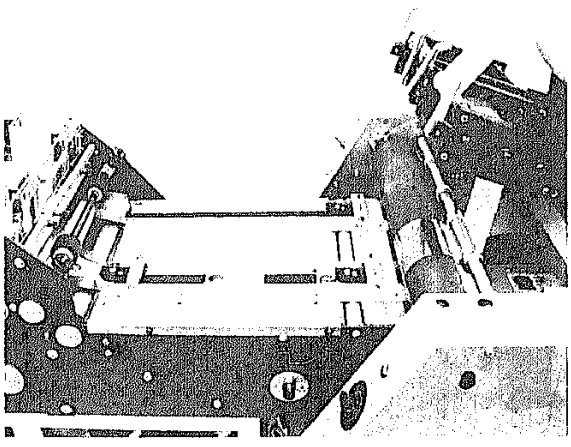
Unfortunately, the selected camera system vendor consistently failed to meet delivery schedules and was eventually terminated.

At the same time that the special cameras were being built, the initial card production facility was being established at the Bureau of Engraving and Printing (BEP) in Washington, D.C. The Bureau was already under contract to develop the engraved plates for the fine lines which appear on the card components, and having the production space become available at the BEP seemed to be the ideal environment. Technicolor Graphics Services, Inc. was the vendor then selected to operate the facility within the Bureau.

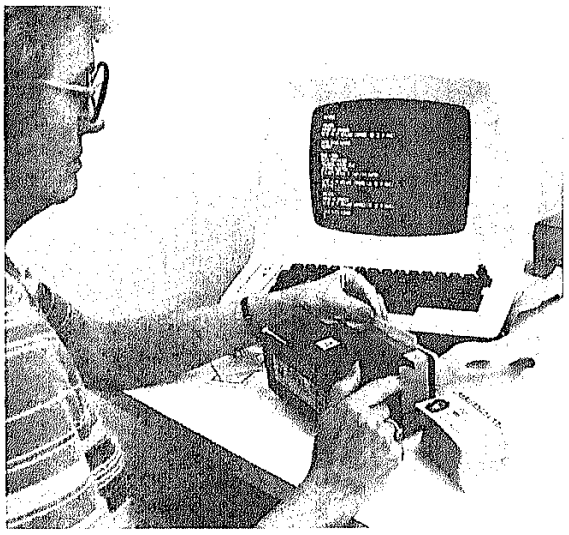
When the special "combining camera" concept failed to materialize, it was certainly a setback for the program. An alternative concept was developed; one in which the arriving immigrant would bring his/her own picture. However, this concept necessitated a more labor intensive assembly of data elements to produce the card as originally designed. It soon became obvious a facility with more space would be needed. And, where else besides Alaska was there



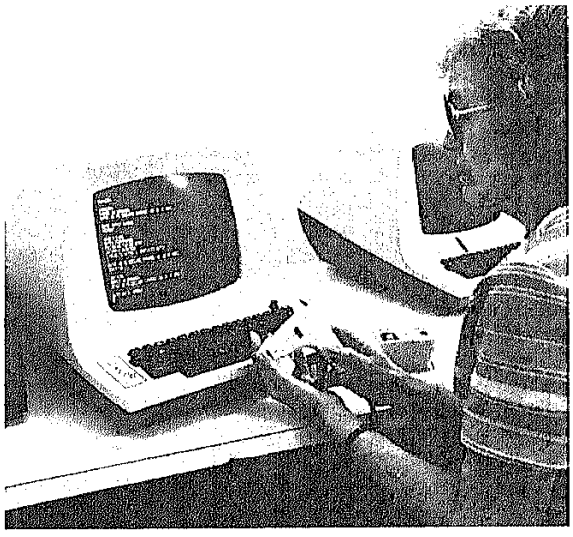
This is the "outside die cutter" trimming the card to its final size.



The completed cards are then run through the laminating machine in the Card Finishing Section.



The completed cards are carefully examined by the contractor's Quality Assurance Section for flaws, cosmetic defects or inconsistencies. Every card is then run through an OCR reader to determine if the data could be read by a future port inspection device.



In addition, a random sampling of cards is checked using a wand-type reader. The wand scans the first line of data on the back of the card to insure computer readability.

more wide open space available than in Texas.

The decision was made and preparations for the transition were underway. The Texas Card Facility was established. By June 1978 card production was fully taking place in Texas. Could it be then that the ADIT System was finally "operational"? Not quite.

In March 1978, one of the most time-consuming delays was encountered when the General Accounting Office (GAO) undertook an audit of the ADIT Program, its delays, and its relocation of the card facility to Texas. It turned out that while the audit resulted in an unfavorable report the Texas Card Facility, nevertheless, had begun to take shape and develop through its infantile stages from a crawl to a walk.

By October 1978, the TCF finally had a full-time manager, after a long

summer of rotating "details" from Washington, D.C.

Today, a year later, the newly-named Immigration Card Facility is off and running. There are still problems but they seem minor when placed in historical perspective. ADIT management is finally looking down the road when the inspection system, which will read the new ADIT cards, can be developed, tested and implemented.

The Card System Description

The new Alien Registration Receipt Card (I-551) represents a composite of aesthetic design, photographic precision, security checkpoints, computerized encryption coding, and secure lamination techniques. This is backed-up by a data base of information which validates and verifies the data contained on the card. Is it any wonder that the production operation and the data collection activities must be so precise!

The Immigration Card Facility is only one function, granted an important one, in the total system. The data placed on the card can only be as accurate as the data submitted on the I-89 Data Collection Form. Data collection is the first step in the process. A number of collection functions initially performed in the field have been taken over by the card facility, to make the gathering of alien data as easy as possible on the field operating units.

If the procedures described in the ADIT Data Collection Manual are not adhered to, or if the information is incomplete or invalid, then the production of the card is futile. Processing errors frequently result in applications being rejected or aliens having to be reprocessed, causing additional expense and delays. The need for quality input cannot be emphasized enough. It is the backbone of the whole ADIT Program.

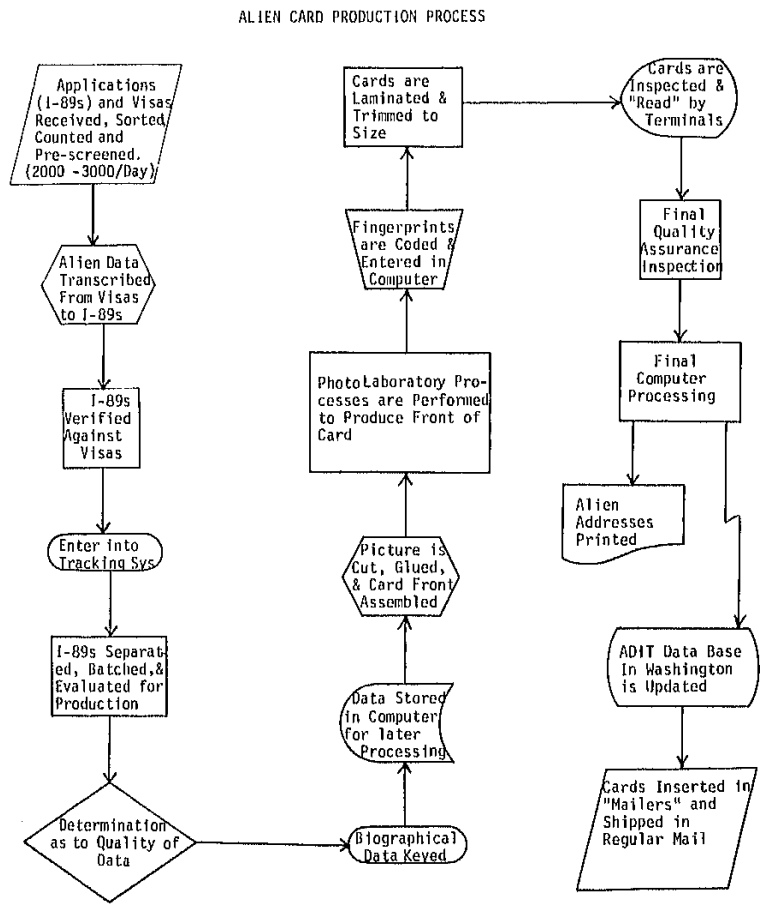
Security and quality are prime considerations throughout the card manufacturing operation. Quality is stressed for a consistent product which cannot be counterfeited. But the data which is put on the card is also put into the ADIT data base associated with the Service's Master Index File (MIF). It is this data that will be checked during the automated inspection activity.

The automated inspection system is presently being designed by the ADIT Technical Staff located in the Central Office. Joint development efforts with the State Department's Visa Office and the U.S. Customs Service are continuing, with testing of prototype equipment scheduled to occur during 1980.

New approaches are being taken by ADP Systems specialists to introduce new methods of establishing the alien's record in computer data bases rather than manual files. One such approach is the Master Index Remote Access Capability (MIRAC). Under this concept, much of the alien data can be keyed via terminals in District Offices into the C.O. Master Index File. This will benefit the Immigration Card Facility by providing the same information which is currently being extracted manually from immigrant visas. It will be transmitted to the production computer at the ICF. Thus, the cumbersome handling and checking of visas will gradually go away from the ICF. It is apparent, therefore, that the card facility not only manufactures cards, but also plays an integral role in the Service's future automation endeavors.

The Card Production Process

Up to now, I heve discussed the concepts and problems, and presented an overview of the ADIT System functions. You may still won-



der what takes place behind the closed security doors at the ICF. Since most people will not be able to visit the operation, we will be preparing some narrated slide shows this year for use in training sessions at the Officer Training and Development Center in Glynco, Georgia. In addition, the slides will be available for use of the regions in providing information on the system to INS people and to the public.

One presentation will show how to "inspect" the card manually, without the primary and secondary terminals. Another will show the methods to follow when performing date collection, and the third will be a tour of the facility production operations. You will see how a card is made just as if you visited the ICF.

The process from initial receipt of the application to final mailing of the card, takes approximately two weeks — usually less. Most aliens should receive their cards in three weeks. The accompanying flow chart shows the step-by-step process for producing an alien card.

Fiscal Year 1980 should again be a challenging year for the Immigration Card Facility and the ADIT Program. More cards then ever before are expected to be produced since in addition to the I-551, we will begin production on the new I-586, Nonresident Alien Border Crossing Card. The I-586 will be produced in the same manner as the I-551. Also, the first phases of the Inspection System will begin with the esteblishment of an Automated Inspection Test Port. Everyone's continued support end adherence to established ADIT procedures is still needed. Without it, the ADIT Program goals and the Immigration Card Facility operations cannot truly be a success. ■

Administration's Efficiency Package

The Administration submitted a legislative package to Congress in April 1979, which we believe could improve the efficiency of INS in a number of areas. In general, the proposed legislation would eliminate or modify some provisions of the Immigration and Nationality Act which have proved unnecessary or impractical, and clarify several sections which have been affected by administrative and judicial decisions. Following is a brief explanation of the proposed changes.

Amend Section 101(a)(15)(F), by limiting "F" classification to academic students and creeting a new subsection (M) defining nonacademic or vocational students. This change is needed because there are many abuses of the "F" visa privilege by nonacademic students and institutions. This proposal would make it easier to enforce restrictions of the length of stay and employment of nonacademic students.

Amend Section 212(e)(17) by limiting to five years the requirement of obtaining permission to reapply after deportetion or removal. At present there is no limitation on the necessity for en alien who was deported to seek permission to reepply for admission to the United States. Generally, en alien who is otherwise admissible and has remained outside the U.S. for a substantial period of time without returning illegally, is granted permission to reenter. Thus, little if any useful purpose is served by the requirement for aliens who have been outside the U.S. for five years or more.

Add e new subsection 212(k) which restores to the Attorney General authority to waive certain technical defects in an immigrant visa which are not the fault of the alien involved. Prior to 1965, similar authority was contained in Section 211(c) of the Act. That section was deleted, apparently inadvertently, when the Act wes amended in 1965.

Lack of authority to waive technical defects has caused hardship in some cases. Authority to waive technical visa defects for those innocent of wrongdoing would serve to avoid needless litigation and would promote a fairer and more efficient administration of the Act.

Amend Section 223(b) to extend the validity of a reentry permit to two years. Under present lew, the reentry permit's initial validity is ilmited to one year, with provision for renewal for one more year. However, the Alien Registration Receipt Card (I-151) has been a sufficient document for return after absences up to one year. Consequently, a resident alien seldom needs a reentry permit and when he does, it will be when he anticipates being absent for more than one year. Thus, it makes little sense to limit the period of initial validity of the reentry permit to one year.

Amend Section 237(a) to provide alternatives for deportation of aliens ordered excluded so that if the country first designated will not accept the alien, application can be made to other countries. Current lew specifies that an alien ordered excluded may be returned only to the "country whence he came". Decisional law has defined "the country whence he came" as the country where the allen lest had a place of abode. Sometimes, however, that country does not recognize the alien's right to return.

This amendment would provide similar options as those contained in Section 243(a) of the Act relating to deportation cases. It will also eliminate the confusing term "whence he came" and meke it cleer to which country deportation initially would be sought.

Amend Section 241(f) to make the waiver of deportability discretionary with the Attorney General; clarify the meaning of the term "otherwise admissible"; and make it clear that relief is available to those who have made innocent, as well as fraudulent,

misrepresentations. That section currently provides a mandatory waiver of deportation based upon visa fraud at the time of entry for those who are "otherwise admissible" and who are spouses, parents, or children of U.S. citizens or lawful permanent residents.

The issue of the proper interpretation of this section has reached the Supreme Court twice with no clear resolution, and the differing administrative and judicial interpretations have left the law in a state of confusion, which makes it virtually impossible for the INS to uniformly administer Section 241(f).

Amend Section 316(b) to allow the spouse and unmarried dependent sons and daughters who are members of the household of an alien lawfully admitted for permanent residence, whose employment requires him to be abroad, to receive beneficial treatment with respect to the period of continuous residence in the U.S. required for naturalization. Currently, such benefits are limited to the principal alien.

Section 316(a) of the Act requires that an applicant for naturalization must have completed five continuous years of residence in the U.S. following a lawful admission for permanent residence. Section 316(b), dealing with absences from the U.S., provides that an absence of one year or more shall break the continuity of residence. Relief is given to an alien whose employment, under conditions specified in the statute, requires him to be abroad for extended periods of time. The bill extends this benefit to family members who go abroad with the principal in pursuit of employment.

Section 334(a) would be amended to eliminate the requirement that a petitioner for naturalization be accompanied by two witnesses when filing a petition for naturalization in court prior to a final court hearing on

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information as to petitioner's fitness for citizenship is obtained by INS in other ways.

Sections 329, 335, and 336 of the Act will require certain conforming amendments necessitated by the elimination of the witness requirements from Section 334(a).

Amend Section 336(c) to eliminate the requirement for a 30-day waiting period between the filing of a petition for naturalization and the final court hearing. The present mandatory 30-day waiting period was intended to assist the Government in conducting appropriate inquiries into the petitioner's qualifications for naturalization. However, all necessary inquiries usually will have been made between the day of submitting the initial application to INS and the date on which the applicant is scheduled to appear for a preliminary examination and the filing of a petition for naturalization.

The proposed amendment would eliminate the need in many cases for a return trip to the court 30 days or more after the filing of the petition.

Section 248 would be amended to allow a change of nonimmigrant status by exchange visitors classified under Section 101(a)(15)(J), who are not subject to the two-year foreign residence requirement of Section 212(e), and to preclude a change of nonimmigrant status for aliens admitted to the U.S. as fiancees or fiances under Section 101(a)(15)(K).

Section 212(e) requires that certain classes of "J" aliens are prevented from applying for permanent residence in the U.S. unless they first return to their country of origin and reside there for two years. This proviso was designed to stem the flow of highly skilled workers, technicians, and professionals from countries where they are badly needed.

Also, Section 248 prevents "J" aliens from circumventing the two-year foreign residency requirement by obtaining a change of nonimmigrant classification and then applying for permanent residence. However, this restriction is unnecessarily broad because more recent amendments to Section 212(e) have significantly reduced the class of "J" aliens who are subject to the two-year foreign residence requirement. Thus, barring change of nonimmigrant status for "J" aliens not subject to the foreign residence requirement is no longer justified.

A further amendment to Section 248 would simply codify current regulations which bar a change from fiancee status ("K") to any other nonimmigrant status.

Amend Section 244(f) to codify two recent Board of Immigration Appeals interpretations. The provisions relating to "J" exchange visitors who apply for suspension of deportation are amended to incorporate the Board's ruling in *Matter of Chien*, 10 I&N Dec. 387 (BIA 1963), that a "J" alien not subject to the two-year foreign residence requirement is not precluded by Section 244(f)(2) from receiving suspension.

Section 244(f)(3) would be eliminated in light of the Board's ruling in *Matter of Finlayson*, Int. Dec. 2569 (BIA 1977), that it has no practical effect following amendment of the Act by P.L. 94-571. Currently, Section 244(f)(3) bars from eligibility for suspension of deportation natives of contiguous countries or adjacent islands who are eligible for "special immigrant" visas. This classification was eliminated by P.L. 94-571.

Amend Section 286 to allow INS to retain funds spent for the purchase of evidence when such funds are subsequently recovered. Presently such funds must be deposited into the Treasury as miscellaneous receipts in accordance with a ruling by the Comptroller General.

The "efficiency package" was introduced in the House by Chairwoman Elizabeth Holtzman, House Subcommittee on Immigration, Refugees and International Law, under H.R. 5087 on August 2, 1979. It was introduced in the Senate on September 18, 1979, by Senate Judiciary Committee Chairman Edward M. Kennedy, under S.1763. Hearings have been held by both Committees and, at this writing, the bills have not been reported out of Committee.

Both the House and Senate bills include some additional changes of a

remedial nature not included in the Administration's package. The Senate bill, among other things, proposes increasing the annual immigrant visa allotment for Canada and Mexico to at least 35,000 and raising the worldwide ceiling to accommodate such an increase.

The House version calls for elimination of suspension of deportation and repeal of Section 13 of the Act of September 11, 1957, relating to the adjustment of status of diplomats who are unable or unwilling to return to their countries of origin. ■

Administrative Decisions

(Due to space limitations it is possible to print only an index and identifying paragraph on each precedent decision. Copies of the decisions may be seen at any local office of the Immigration and Naturalization Service. Copies may also be purchased on a yearly subscription basis ($50. per year, $12. extra for foreign mailing) from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The Decisions will be printed later in bound volume form. Volumes of past Administrative Decisions are on sale at the Government Printing Office in Washington. **Note: Decisions missing from the numerical sequence have not at this printing been released for publication.)**

Number 2632-Matter of Patel. In Section 246 Proceedings A-20289698. Decided by BIA January 25, 1978.

(1) Under the provisions of 20 CFR 656.30(d), effective February 18, 1977, a labor certification issued by the Labor Department is subject to invalidation by the Immigration and Naturalization Service or the Department of State only upon a finding of fraud or willful misrepresentation of a material fact involving the labor certification application.

(2) **Matter of Hernandez-Urlarte**, 13 I & N Dec. 199 (BIA 1969) interpreting 29 CFR 60.5(g), the regulation superseded by 20 CFR 656.30(d), is superseded.

(3) Since under the new controlling regulation a finding of fraud or willfulness is required to invalidate a labor certification duly issued by the Labor Department, and the immigration judge specifically refrained from making such a finding in view of our interpretation of the previously controlling regulation, the record is remanded for a new evidentiary hearing to allow the respondent and the Service an opportunity to explore the issue.

Number 2633-Matter of Nago. In Exclusion Proceedings A-21223151. Decided by BIA February 8, 1978.

Where the applicant for admission to the United States is a highly trained chef who is engaged in a specialized form of Japanese (Nabemono) cooking and has been brought to the United States to impart his knowledge and share his experiences with other employees of a treaty investor in order to enable them to become proficient in "Nabemono" cooking, Board of Immigration Appeals concluded that the applicant is employed by a treaty investor in a responsible capacity and therefore qualifies for admission as a nonimmigrant alien within the meaning of section 101(a)(15)(E)(ii) of the Act, 8 U.S.C. 1101(a)(15)(E)(ii).

Number 2634-Matter of Kotte. In Deportation Proceedings A-22281822. Decided by BIA February 10, 1978.

(1) Where a visa petition, filed prior to the commencement of deportation proceedings, to accord the respondent third preference status, had not been approved at the time of the deportation hearing, the Board of Immigration Appeals concluded that the immigration judge was not required to continue deportation proceedings pending adjudication of respondent's visa petition by the District Director.

(2) In deciding that the respondent did not possess an approved visa pending and that, therefore, he was statutorily ineligible for adjustment of status under section 245 of the Immigration and Nationality Act, the Board of Immigration Appeals concluded that neither it nor the immigration judge had authority to determine the respondent's qualifications for third preference status and that jurisdiction in this matter rested solely with the District Director and Regional Commissioner.

(3) Notwithstanding the amendment of section 245(a) of the Immigration and Nationality Act by Pub. L. 94-571, Immigration and Nationality Act Amendments of 1976 (October 20, 1976), and the amendment of 8 CFR 245.2(a)(2) making adjustment of status contingent upon the availability of a visa on the date of *filing* rather than on the date of approval of a visa petition, there is no absolute right to a continuance of the deportation hearing, at which adjustment is sought, to a date after the District Director has adjudicated a pending third preference visa petition.

Number 2635-Matter of Trujillo. In Deportation Proceedings A-16031874. Decided by BIA February 14, 1977.

Respondent would not be precluded from showing that he was a person of good moral character within the meaning of section 101(f)(2) of the Immigration and Nationality Act notwithstanding involvement in an adulterous relationship, where the relationship did not destroy a prior existing viable marriage. See **Wadmen v. INS**, 329 F.2d 812 (9 Cir. 1964). **Brea-Garcia v. INS**, 531 F.2d 693 (3 Cir. 1976) distinguished.

Number 2636-Matter of Buenaventura. In Visa Petition Proceedings A-20317534, A-20317535. Decided by BIA April 27, 1977.

(1) United States citizen petitioner, a resident of California applied for

immediate relative status for the beneficiaries as his children under section 201(b) of the Immigration and Nationality Act. The petition was denied by the district director and petitioner appealed.

(2) In order to qualify for benefits under section 201(b) beneficiaries must qualify as petitioner's children under section 101(b)(1)(C) of the Act. That section provides that a "child" for immigration purposes is one legitimated under the law of the father's residence or domicile, whether inside or outside the United States, if such legitimation takes place before the child reaches the age of eighteen years and the child is in the custody of the legitimating parent or parents at the time of such legitimation.

(3) Section 230 of the California Civil Code which was in effect at the time the alleged legitimation occurred provided:

> "The father of an illegitimate child by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child thereby adopts it as such; and such child is thereupon deemed for all purposes legitimate from the time of its birth".

(4) Since 1963 when male beneficiary was 9 and female beneficiary 7, they have lived with petitioner's mother in the Philippines. He has sent them money, both he and his wife have visited them. The petitioner has been a resident of California since at least 1963, and California law governs the determination of whether the children have been legitimated. Under California law, the children were received into the family in 1963 under the circumstances of this case and were thus legitimated under section 230. Since the beneficiaries were in the custody of their paternal grandmother and supported by the petitioner, they were in the legal custody of petitioner at the time of their legitimation as required by section 101(b)(1)(C) of the Act.

(5) The visa petitions will be granted. However, since male beneficiary is 22 years of age he cannot qualify as an immediate relative under section 201(b) of the Act, so his petition will be considered an application for status under section 203(a)(1) of the Act.

(6) Board declines to follow the decision in **Matter of Pebleo**, 12 I & N Dec. 503 (D.D. 1967); **Matter of Garcia**, 12 I & N Dec. 628 (BIA 1968) overruled.

Number 2637-Matter of S/T "Grand Zenith". In Fine Proceedings SFR-10/28.333. Decided by BIA August 19, 1977.

(1) Appellant carrier paid off and discharged the involved crewman without first obtaining the consent of the Attorney General as required by section 256 of the Immigration and Nationality Act. The Service fined the carrier under two provisions of the Act—Section 256 for the unauthorized pay-off and discharge, and under section 254(a)(2), for failure to detain on board a crewman who was refused a conditional landing permit.

(2) The fine imposed under section 256 of the Act was proper because the crewman was paid off and discharged without first receiving the consent of the Attorney General.

(3) Since the carrier was fined for discharging the crewman under section 256, it was not proper to assess a fine under section 254(a)(2) because in these circumstances the Service is restricted from imposing two fines for the same misfeasance by the carrier.

Number 2638-Matter of Cruz. In Exclusion Proceedings A-20893002. Decided by BIA June 7, 1977, as amended August 5, 1977.

(1) 8 CFR 3.5 requires that the entire record of the proceeding shall be forwarded to the Board on appeal. A cassette recording of the exclusion hearing is not suitable for appellate review of the case. The regulation requires submission of a written transcript of any hearing held before an immigration judge.

(2) Under 8 CFR 103.3(a) a copy of all briefs, memoranda, and representations filed by the Service in connection with an appeal to the Board must be served on the affected party and these papers must be signed and dated. In this record there is no evidence that these papers were served on the applicant.

(3) 8 CFR 236.5(c) requires that the applicant shall be notified in writing when an appeal is taken by the district director from an adverse order of the immigration judge in an exclusion case. Since the record does not contain a copy of the notice, it is assumed the applicant never received the notice as required by this regulation.

(4) Since filing of a brief, including a reply brief, is discretionary, a decision may be rendered without a brief, and should be, where as here, the Service's reply brief was not filed within a reasonable time.

(5) The record will be remanded to the immigration judge to correct the defects in the record and afford applicant an opportunity to respond to the Service's memoranda and representations filed in support of the appeal. See **Matter of Gibson**, Int. Dec. No. 2541 (BIA 1976).

Number 2639-Matter of Raol. In Deportation Proceedings A-20894847. Decided by BIA March 7, 1978.

(1) Motion to reopen deportation proceedings to apply for adjustment of status under section 245 of the Act, 8 U.S.C. 1255, was properly denied by the immigration judge on the ground that the respondent was precluded from that relief under the "unauthorized employment" proviso of section 245(c) of the Act, 8 U.S.C. 1255(c).

(2) A labor certification issued on behalf of the Secretary of Labor does not operate to authorize one's employment after January 1, 1977, and at the time of applying for adjustment of status within the meaning of section 245(c)(2) of the Act, 8 U.S.C. 1254(c)(2).

(3) An alien's employment is unauthorized when it has not been approved by the Immigration and Naturalization Service.

(4) Reinstatement of voluntary departure found warranted by Board in order to facilitate the respondent's return to this country as an immigrant where sixth preference visa petition has been approved and a visa is awating the respondent abroad.

Number 2640-Matter of Rafipour. In Deportation Proceedings A-21017491. Decided by BIA March 13, 1978.

Despite respondent's conviction under 8 U.S.C. 1306(c) (filing application for alien registration containing statements known by him to be false) a deportable offense under section 241(a)(5), he is not excludable and, therefore, not ineligible for adjustment of status. **Matter of R-G-**, 8 I&N Dec. 128 (BIA 1958) reaffirmed. See also **Matter of Sanchez**, Interim Decision 2617 (BIA September 27, 1977).

Number 2641-Matter of Reyes. In Visa Petition Proceedings A-22172079. Decided by BIA March 20, 1978.

(1) In order to qualify as a "son" for preference purposes, a beneficiary must once have qualified as the child of the petitioner under section 101 (b)(1).

(2) Under the law of the Dominican Republic, legitimation of a child born out of wedlock is effected by the acknowledgment of the natural offspring followed by the subsequent marriage of the parents.

(3) An act of acknowledgment of paternity in the Dominican Republic without the marriage of the natural parents does not establish coextensive inheritance rights with children who were born in wedlock or children who were legitimated by the marriage of their natural parents; and, hence, an acknowledged child in the Dominican Republic cannot be equated with a legitimate or legitimated child for immigration purposes.

(4) Under the law of New York, petitioner's state of record, the natural parents must marry in order to legitimate a child.

(5) Where the petitioner has not presented evidence to show that the beneficiary was legitimated under the law of the child's residence or domicile, or under the law of his residence or domicile as required by section 101(b)(1)(C) of the Act, 8 U.S.C. 1101(a)(1)(C), the petition must be denied.

Number 2642-Matter of Wiesinger. In Deportation Proceedings A-20351136. Decided by BIA March 27, 1978.

Neither the Board of Immigration Appeals nor the immigration judge has authority to rule upon the qualifications of respondent (a nonpreference applicant for section 245 adjustment of status) for precertification as a minister under Schedule A of 29 CFR 60.7, since, by regulation, such authority lies solely with the District Director and in the absence of approval of precertification by the District Director, his application for adjustment must be denied. **Matter of Kjeldaas**, Interim Decision 2605 (BIA 1977) modified.

Number 2643-Matter of Clahar. In Visa Petition Proceedings A-22160970. Decided by BIA April 7, 1978.

(1) In order to support a claimed "brother/sister" relationship under section 203(a)(5), a petitioner has to establish that both he and the beneficiary once qualified as "children" of a common "parent" within the meaning of section 101(b)(1) and (2) of the Act.

(2) A petitioner and beneficiary who were not born in wedlock cannot qualify as the legitimate children of their natural father within the meaning of section 101(b)(1)(A), 8 U.S.C. 1101(a)(1)(A).

(3) Under the Legitimation Act of Jamaica, a child born before the marriage of his parents is considered their legitimate child from the date of the marriage and is entitled to all the rights of a legitimate child.

(4) Under the Status of Children Act of Jamaica, an act of acknowledgment of paternity without the marriage of the natural parents does not establish coextensive rights with children who were born in wedlock or children who were legitimated by the marriage of their natural parents; and, hence, an acknowledged child in Jamaica cannot be equated with a legitimate or legitimated child for immigration purposes.

(5) A beneficiary who does not qualify as either a legitimate child under section 101(b)(1)(A) or as a legitimated child under section 101 (b)(1)(C) of the Immigration and Nationality Act, is ineligible for immigration benefits under section 203(a)(5) of the Act.

Number 2644-Matter of Hranka. In Section 212(d)(3) Proceedings A-20925982. Decided by BIA April 6, 1978.

(1) In an application for advance permission to enter as a nonimmigrant pursuant to section 212(d)(3) of the Act, there is no requirement that the applicant's reasons for wishing to enter the United States by "compelling."

(2) An application under section 212(d)(3)(B) requires a weighing of at least three factors: (1) the risk of harm to society if the applicant is admitted; (2) the seriousness of the applicant's immigration law, or criminal law violation, if any; and (3) the nature of the applicant's reasons for wishing to enter the United States.

(3) Upon application of the balancing test to the facts of this case, the applicant's previous deportation for having engaged in prostitution in April, 1975, was held to have been outweighed by the fact that she has no other criminal or immigration law violations, she has demonstrated that she is rehabilitated and she has a substantial reason for desiring a waiver under section 212(d)(3) in that she has many close relatives living across the border in the United States; thus, the requested waiver should be granted.

Number 2645-Matter of Ferreira. In Visa Petition Proceedings A-20833674. Decided by BIA April 19, 1978.

(1) In order to support the claimed "sister" relationship under section 203(a)(5) of the Immigration and Nationality Act, the petitioner must establish that she and the beneficiary once qualified as the "children" of a common "parent" as those terms

are defined by section 101(b)(1) and (2) of the Act.

(2) The petitioner, the legitimate offspring of her father, qualifies as his "child" within the meaning of section 101(b)(1)(A) of the Act; however, since the beneficiary was born out of wedlock and was neither adopted in accordance with section 101(b)(1)(E) of the Act by her putative natural father, the petitioner's father, nor legitimated in accordance with section 101(b)(1)(C) of the Act by the marriage of her mother and her putative natural father when she was over 18 years of age, the beneficiary does not qualify as his "child" within the meaning of section 101(b)(1) of the Act and a visa petition predicated upon the relationship of the petitioner and the beneficiary to a common father must be denied as a matter of law.

(3) The petitioner became the stepchild of the beneficiary's mother pursuant to section 101(b)(1)(B) of the Act upon the marriage of the petitioner's father to the beneficiary's mother when the petitioner was under 18 years of age and the beneficiary qualifies as the "child" of her mother by reason of section 101(b)(1)(D) of the Act; hence, the petitioner and the beneficiary are "children" of a common "parent" within the meaning of section 101(b)(1) and (2) of the Act and may be regarded as "sisters" for purposes of section 203(a)(5) of the Act.

Number 2646-Matter of Hajdu. In Deportation Proceedings A-20202102. Decided by BIA April 11, 1978.

(1) In determining whether respondent's membership in the Communist Party of Hungary falls within the proviso contained in section 212(a)(28)(I), concerning "involuntary" membership, fact that respondent was already employed at the time he joined the Party would not necessarily render him inadmissible for permanent residence and ineligible for adjustment of status.

(2) In adjustment of status proceedings, the burden is upon the respondent, as an admitted member of the Communist Party of Hungary, to establish that he is eligible for permanent residence under the proviso in section 212(a)(28)(I) concerning "involuntary" membership. The "meaningful association" test of Communist Party membership enunciated by the Supreme Court of the United States in **Galvan v. Press**, 347 U.S.C. 522 (1954) and subsequent cases arose in the context of deportation proceedings (where the Government bears the burden of proof) and it has no direct application in an adjustment of status case.

Number 2647-Matter of King and Yang. In Deportation Proceedings A-11527215, A-15527215. Decided by BIA April 25, 1978.

(1) An immigration judge has no authority to grant immunity from criminal prosecution and he cannot reject a valid Fifth Amendment claim by purporting to bind the law enforcement agencies in their freedom to prosecute.

(2) The respondent's Oriental appearance, combined with the past history of illegal alien employment at the particular restaurant where they were encountered, and an anonymous tip, gave rise to a reasonable suspicion by a Service officer of alienage sufficient to justify the very limited invasion of privacy engendered by a nondetentional questioning.

(3) A Service official's knowledge that the respondents were not in possession of their immigration documents created a reasonable belief that the respondents were in violation of the immigration laws. This belief that a violation of the law has occurred, together with a reasonable belief that the respondents were "likely to escape," justified the officer's determination to place the respondents in custody.

(4) Under section 264 of the Immigration and Nationality Act, an alien is required to have in his possession a certificate of alien registration or alien registration receipt card and similarly, he is required to produce it to a Service officer engaged in normal and proper fulfillment of his duties. Therefore, there was no violation of the respondents' Fourth or Fifth Amendment rights when deportability was based on the information obtained as the result of a lawful detention and voluntary handing over of their Crewman's Landing Permits (Forms I-95).

(5) Inasmuch as the respondents were clearly *bona fide* seamen at the time of their illegal entry, they had made previous trips to the United States as seamen and had reshipped within the allotted time, they had not previously violated the immigration laws, they manifested an ability and willingness to depart voluntarily and there was nothing to show a lack of good moral character, they merited voluntary departure in the exercise of discretion.